

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: ZIMMER NEXGEN KNEE  
IMPLANT PRODUCT LIABILITY  
LITIGATION

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THIS DOCUMENT APPLIES TO:

Plaintiff: \_\_\_\_\_

Action No.: \_\_\_\_\_

MDL No. 2272

MASTER DOCKET CASE NO. 11 C 05468

JUDGE REBECCA R. PALLMEYER

**DEFENDANT'S FACT SHEET**

Defendant ZIMMER, INC. ("Defendant" or "You" or "Your"), submits the following  
Defendant's Fact Sheet responses and related Documents for the above referenced case.

**INSTRUCTIONS**

Please provide the following information for plaintiff (or plaintiff's decedent) (hereinafter "Plaintiff") who was implanted with a Zimmer NexGen Flex Femoral Component (i.e., CR-Flex, LPS-Flex or Gender Solution Flex) and/or MIS Tibial 5950 Component, as identified in the Plaintiff Fact Sheet (hereinafter "Femoral or MIS Device"), which is the subject of Plaintiff's complaint in the above referenced action. In filling out any section or sub-section of this form, please submit additional sheets as necessary to provide complete information. If appropriate, you may in good faith answer "I don't know" or "unknown." If you cannot recall all of the details requested, please provide as much information as you can. If a question is not applicable to you, please state "Not Applicable" or "N/A."

In completing this Defendant's Fact Sheet, You are under oath and must provide information that is true and correct to the best of Your knowledge, information and belief. If the response to any question is that You do not know the information requested, that response should be entered in the appropriate location(s). Any person preparing Your responses or verifying Your responses on Your behalf may and should consult with Your attorney if such persons have any questions regarding the completion of this form.

All information provided herein is confidential and subject to the terms of the protective order entered by the Court in MDL No. 2272.

**I. CASE AND RESPONSE INFORMATION**

This Defendant Fact Sheet pertains to the following case:

Case Caption: \_\_\_\_\_

Case Action No.: \_\_\_\_\_

Court in which action originally filed: \_\_\_\_\_

Date this DFS was completed: \_\_\_\_\_

Names and contact information of the person(s) who verified this DFS:

Name and Title: \_\_\_\_\_

Company/Firm and Address: \_\_\_\_\_

**II. DEVICE MANUFACTURE AND DISTRIBUTION INFORMATION**

For each Zimmer NexGen Flex Femoral Component (i.e., CR-Flex, LPS-Flex or Gender Solution Flex) and/or 5950 MIS Tibial Component which has been explanted, or for which Plaintiff provides proof that he/she has been advised by a physician should be explanted, as identified by Plaintiff in response to Section V.2. and V.9 of the PFS (collectively, "Plaintiff's Device(s)"), please provide the following information:

(In lieu of providing answers to II.a.-i., Defendants may provide Device History Records and Distribution History Reports for each of the above-described components).

a. The catalog and lot number of Plaintiff's Devices:

\_\_\_\_\_

b. The date(s) on which Plaintiff's Devices were manufactured.

\_\_\_\_\_

c. The place(s) at which Plaintiff's Devices were manufactured.

\_\_\_\_\_

d. The Identity of the quality control inspector(s) for Plaintiff's Devices.

\_\_\_\_\_

\_\_\_\_\_

- e. The Identity of the Person or entity to whom Defendant(s) shipped Plaintiff's Devices, and the date shipped to such Person or entity. \_\_\_\_\_  
\_\_\_\_\_
- f. The Identities of all entities in the chain of custody of Plaintiff's Devices from the time of manufacture until the time of delivery of the Devices to Plaintiff's Healthcare Provider, if known, including but not limited to any third party distribution entity, if applicable, who ever had custody of Plaintiff's Devices. Please also include the dates on which the Devices were shipped to each entity.
- g. The Identity of the hospital, surgeon, surgery center, orthopedic practice, HMO, or user facility that purchased Plaintiff's Devices or other such ultimate purchaser of Plaintiff's Devices (hereinafter "Purchaser").  
\_\_\_\_\_  
\_\_\_\_\_
- h. The date Plaintiff's Devices were sold to the Purchaser.  
\_\_\_\_\_
- i. The date of shipment of Plaintiff's Devices to the Purchaser.  
\_\_\_\_\_

**III. PRODUCT/MARKETING/SALES REPRESENTATIVE AND MANAGER INFORMATION**

- a. Identify all distributors who were involved in the sale of Plaintiff's Device(s).  
\_\_\_\_\_  
\_\_\_\_\_

**IV. COMMUNICATIONS AND RELATIONSHIPS WITH PLAINTIFFS' HEALTHCARE PROVIDERS AND PLAINTIFF**

- a. Identify all Dear Healthcare Provider letters and/or recall letters, sent to Plaintiff's implanting and explanting surgeon (and/or their group or practice, if known), as identified in Plaintiff Fact Sheet Section V. In lieu of identifying the Communications in list form, Defendants may produce copies of all such Communications, specifically identified herein by Bates number.  
\_\_\_\_\_  
\_\_\_\_\_

- b. Identify all Communications between You and Plaintiff. In lieu of responding in list form, Defendant may produce copies of all communications between Defendant and Plaintiff.

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- c. Identify all Defendant-sponsored knee-related medical education meetings, including but not limited to instruction, education, training courses, seminars, meetings, continuing education programs and the like, attended by the surgeon who implanted Plaintiff's Device(s) since January 1, 1996. In lieu of responding directly for each Plaintiff, Defendants may provide a list showing Defendant-sponsored knee-related medical education meetings and Plaintiffs' implanting surgeons who attended them from January 1, 1996, to the present.

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- c. Identify all consulting relationships, including but not limited to pre-clinical, clinical, post marketing surveillance or other study or trial concerning Zimmer knee replacement systems, between You and Plaintiff's implanting surgeon, and the group or practice(s) of which s/he was a member at the time of Plaintiff's implant surgery, if known, since January 1, 1999. In lieu of providing a list of such consulting relationships, Defendants may produce copies of consulting agreements with Plaintiff's implanting surgeon and his/her group or practice at the time of implantation, if known, since January 1, 1999.

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- d. Identify all financial compensation provided by You to Plaintiff's implanting surgeon and the group or practice(s) of which s/he was a member at the time of Plaintiff's implant surgery, if known, since January 1, 1999. In lieu of providing the financial compensation information in list form, Defendant may produce all 1099s for Plaintiff's implanting surgeon and the group or practice(s) of which s/he was a member at the time of Plaintiff's implant surgery, if known, since January 1, 1999.

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**V. PLAINTIFF'S INJURIES AND EXPLANTATION**

- a. Please state whether You or anyone acting on Your behalf have possession, custody or control of Plaintiff's explanted knee implant. If so, please identify the Plaintiff's Devices, the individual or entity who has actual custody of the Plaintiff's Devices, and the location of Plaintiff's Devices.

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- b. Please describe any testing or alteration that was done to the Plaintiff's Devices post-explant, if the explanted Plaintiff's Devices were ever in your possession, custody or control, including the dates of testing, location of testing, the identity of the person testing Plaintiff's Devices, the types of tests conducted and the results of testing, if known.

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**VI. ADVERSE EVENT REPORTS**

- a. Was any Medical Device Adverse Event Report or MedWatch form prepared concerning Plaintiff's Device? If your response is affirmative, provide the reports.

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**VII. EXPLANTED DEVICE**

1. Are you in possession of any of the following:

- |    |             |     |                          |    |                          |
|----|-------------|-----|--------------------------|----|--------------------------|
| a) | Explant:    | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| b) | Tissue      | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| c) | Photographs | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| d) | Video       | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

3. Are you in possession of any blood test results: Yes ☐ No ☐

#### VIII. DOCUMENT DEMANDS

These Document requests are not intended to seek attorney client communications, or attorney work product materials. In addition, these requests do not encompass or seek information about expert witnesses or communications with and/or from experts or proposed trial exhibits or trial materials which may be subject to disclosure at a later date in accordance with subsequent Court Order or rule. Thus, if you have any of the following in Your possession or control which is not protected as set forth above, please provide a copy of it with Your response to this Defendant's Fact Sheet.

Responsive Documents shall be produced in accordance with the Rule 34 of the Federal Rules of Civil Procedure. Responsive Documents also shall be separated and identified according to the Document Request Number to which they are most responsive.

REQUEST NO. 1: Communications, including call logs, correspondence, facsimiles, letters, and emails regarding the Plaintiff and/or Plaintiff's implant or explant surgery from January 1, 2005, through present.

REQUEST NO. 2: Photos or videos of any device explanted from Plaintiff.

REQUEST NO. 3: Post-explant test results concerning explanted Plaintiff's Device(s), including testing on any explants, tissue samples and blood work.

REQUEST NO. 4: Any medical records collected by Zimmer presuit and not provided by Plaintiff's counsel.

REQUEST NO. 5: All Documents that reflect or relate to any inspection, quality control or testing, or failure analysis done on Plaintiff's Device(s) after explantation of the Device from Plaintiff.

REQUEST NO. 6: Documents that refer to or reflect any rebates to any of Plaintiff's Healthcare Providers concerning the Zimmer NexGen Systems.

**VERIFICATION**

\_\_\_\_\_, being duly sworn, states that she is an officer of Zimmer, Inc.; that she has read the foregoing and knows its content; that he/she does not have personal knowledge of all facts recited in the responses, but the responses were prepared with the assistance and advice of counsel and employees of Zimmer, Inc., upon whose advice he/she has relied; that the responses, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these responses; that he/she and Zimmer, Inc., consequently reserve the right to make any changes in the responses if it appears at any time that omissions or errors have been made or that more accurate information is available; and that, subject to the limitations stated, the responses are true to the best of his/her knowledge, information and belief.

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Employer: \_\_\_\_\_

Title: \_\_\_\_\_